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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2008 MAR -3 AM 11:00

UNITED STATES OF AMERICA, Plaintiff, v. **Emmanuel HERNANDEZ-Gayosso,** Defendant	Magistrate Docket No. '08 MJ 0634 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **March 1, 2008** within the Southern District of California, defendant, **Emmanuel HERNANDEZ-Gayosso,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **3rd** DAY OF **March 2008.**

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Emmanuel HERNANDEZ-Gayosso

PROBABLE CAUSE STATEMENT

On March 2, 2008, at approximately 09:45 P.M, Border Patrol Agent V. Arguello, was performing line watch operations in an area known as "Spooner's Mesa." This area is approximately four miles west of the San Ysidro, California, Port of Entry and fifty yards north of the United States/Mexico International Boundary fence. Agent Arguello, responded to a radio call from a National Guard scope operator, reporting three individuals running northbound. After a brief search, Agent Arguello found three individuals attempting to conceal themselves in the brush. Agent Arguello identified himself as a United States Border Patrol Agent, and conducted an immigration inspection. The subject, later identified as defendant **Emmanuel HERNANDEZ-Gayosso**, admitted to being a citizen and national of Mexico illegally in the United States withoutany documents that would allow him to legally enter or remain in the United States. At 9:50 PM, Agent Arguello arrested all individuals including the defendant and they were transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **February 7, 2008** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally. The defendant stated his destination was Los Angeles, CA.